THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19520 OF 2005

DATED:5.9.2005

Between:

Smt.K.Jaya,

W/o.K.Sriram Reddy,

R/o.2-61/1, Nadergul Village

Saroornagar Mandal, R.R.District and others

…Petitioners

And

The Joint Collector, Ranga Reddy District

Lakdikapool, Hyderabad

and others

…Respondents

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ORDER:

The petitioners claimed to be absolute owners and possessors of agricultural dry and wet land admeasuring Ac.2.21 gts. in S.Nos.275 and 276, Ac.3.27 gts. in S.Nos.281 and 282 and Ac.7.02 gts in S.No.286 and Ac.5.25 gts. in S.Nos.341 to 344, 346 and 347 of Nadergul Village, Saroornagar Mandal, Ranga Reddy District. They claim that they purchased the property under registered sale deed dt.1.7.2002 pursuant to agreement of sale entered into earlier with the vendors who claimed title to the property by virtue of patta No.170 issued by revenue officials. It is further case of petitioners that after purchasing the property, they made an application to the

Mandal Revenue Officer for necessary correction in record of rights on 5.7.2002. It appears, third respondent herein also made an application for mutation of her name in the revenue records based on registered gift/settlement deed dt.17.6.2002.

The Mandal Revenue Officer conducted enquiry and by order dt.9.12.2002 ordered mutation of the names of the petitioners in the revenue records duly rejecting the claim of the third respondent. Aggrieved by the same, third respondent filed appeal before second respondent under Section 5(5) of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act). The appellate authority, by proceedings dt.7.1.2005 dismissed the appeal. The third respondent again invoked Section 9 of the Act before the first respondent by filing revision petition. First respondent by the impugned order dt.26.7.2005 set aside the orders of the Mandal Revenue Officer holding that a civil suit filed by third respondent being O.S.No.95 of 2003 on the file of the Court of II Additional District Judge, Ranga Reddy District, is pending and therefore enquiry under the Act cannot be taken up. While doing so, first respondent also set aside the orders of the Mandal Revenue Officer, who had earlier ordered mutation of the names of the petitioners in respect of various lands which they allegedly purchased under sale deeds.

Learned counsel for the petitioners, Sri R.Mahender Reddy, submits that third respondent filed suit in Civil Court on 21.4.2003 whereas the orders were passed by the Mandal Revenue Officer on 9.12.2002 prior to filing of the suit and therefore the Joint Collector was not correct in allowing the revision petition filed by third respondent and set aside the order of the Mandal Revenue Officer. I am afraid, this submission is misconceived.

Under sub-section (2) of Section 8 of the Act any person aggrieved by any entry made in any record of rights in respect of the land in possession can file a suit for declaration of his right under Specific Relief Act, 1963 and the entry would be amended in accordance with the decree of Civil Court. Further, under rule 9(1)(iv)(c)(ii) of the Act when the Mandal Revenue Officer holds summary enquiry, he shall desist from such enquiry if either of the party brings to the notice of the Mandal Revenue Officer that a suit in Civil Court to establish superior title is pending. Therefore, whether suit is filed prior to initiating proceedings before the Mandal Revenue Officer or suit is filed after initiating such enquiry, the law contemplates that any enquiry under the Act would be a futile enquiry. The parties have to await the result of the suit. If so advised, it shall be open to petitioners as well as contesting respondents to approach the Civil Court and obtain appropriate orders regarding possession. Insofar as the impugned order of Joint Collector is concerned, the same cannot be faulted on the ground that third respondent filed suit subsequently.

The Writ Petition is accordingly dismissed. No costs.

(V.V.S.RAO, J)

5.9.2005

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